

FILED
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DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

ALICJA PALKA,

Plaintiff,

v.

WAL-MART STORES, INC., a foreign
corporation; ANA RODRIGUEZ, agent of
WAL-MART STORES, INC.,

Defendants.

No. 2018L011533
Plaintiff Demands a Jury Trial

COMPLAINT AT LAW

NOW COMES Plaintiff, ALICJA PALKA, by and through her attorneys, ROMANUCCI & BLANDIN, LLC, and complaining against Defendants, WAL-MART STORES, INC., a foreign corporation; ANA RODRIGUEZ, agent of WAL-MART STORES, INC., pleading hypothetically and in the alternative hereby state as follows:

FACTUAL ALLEGATIONS

1. On November 2, 2016 and at all relevant times herein, Plaintiff ALICJA PALKA was a resident of the County of Cook, State of Illinois.
2. On November 2, 2016 and all relevant times herein, Defendant WAL-MART STORES, INC. existed by and under the laws of the State of Illinois.
3. On November 2, 2016 and all relevant times herein, Defendant WAL-MART STORES, INC. was doing business in the State of Illinois.
4. On November 2, 2016 and at all relevant times herein Defendant, ANA RODRIGUEZ, was a resident of the County of Cook, State of Illinois.

5. On November 2, 2016 and at all relevant times herein, there existed a retail store and pharmacy located at 8500 W. Golf Rd., Niles, IL, commonly known as Walmart Store Number 3725.

6. On November 2, 2016 and at all relevant times herein Defendant, ANA RODRIGUEZ, was the employee of WAL-MART STORES, INC.

7. On November 2, 2016 and at all relevant times herein Defendant, ANA RODRIGUEZ, was the actual agent of WAL-MART STORES, INC.

8. On November 2, 2016 and at all relevant times herein Defendant, ANA RODRIGUEZ, was the apparent agent of WAL-MART STORES, INC.

9. On November 2, 2016 and at all relevant times herein Defendant, ANA RODRIGUEZ, was the manager of Walmart Store Number 3725.

10. Upon information and belief, and at all relevant times, including on or about November 2, 2016 at approximately 11:00 A.M., Defendant, ANA RODRIGUEZ, was at within the course and scope of her employment, agency and or servant relationship with the Defendant, WAL-MART STORES, INC.

11. On November 2, 2016, at Walmart Store 3725, Defendant, ANA RODRIGUEZ, conducted herself in such a manner as to cause members of the general public, including Plaintiff and other customers, to believe that she was an employee, agent, and/or servant of the Defendant, WAL-MART STORES, INC.

12. On November 2, 2016 and at all relevant times herein, Defendant, WAL-MART STORES, INC., owned the premises located 8500 W. Golf Rd., Niles, IL, commonly known as Walmart Store Number 3725.

13. On November 2, 2016 and at all relevant times herein, Defendant, WAL-MART STORES, INC., operated the premises located at 8500 W. Golf Rd., Niles, IL, commonly known as Walmart Store Number 3725.

14. On November 2, 2016 and at all relevant times herein, Defendant, WAL-MART STORES, INC. managed the premises located at 8500 W. Golf Rd., Niles, IL, commonly known as Walmart Store Number 3725.

15. On November 2, 2016 and at all relevant times herein, Defendant, WAL-MART STORES, INC. maintained the premises located at 8500 W. Golf Rd., Niles, IL, commonly known as Walmart Store Number 3725.

16. On November 2, 2016 and at all relevant times herein, Defendant, WAL-MART STORES, INC. controlled the premises located at 8500 W. Golf Rd., Niles, IL, commonly known as Walmart Store Number 3725.

17. On November 2, 2016 and at all relevant times herein, Walmart Store Number 3725 was open for business to the general public.

18. On November 2, 2016 and at all relevant times herein, there existed water on the floor of Walmart Store Number 3725.

19. On November 2, 2016 and at all relevant times herein, said water existed near the pharmacy in a pathway used by customers of Walmart Store Number 3725.

20. On the morning of November 2, 2016, at Walmart Store Number 3725, said water came to exist on the floor from a leak in the roof and/or ceiling.

21. On the morning of November 2, 2016, an employee, agent and/or servant of Defendant WAL-MART STORES, INC. did not prevent the water from leaking onto the floor.

22. On the morning of November 2, 2016, an employee, agent and/or servant of Defendant WAL-MART STORES, INC. did not warn customers of the water on the floor.

23. On the morning of November 2, 2016, an employee, agent and/or servant of Defendant WAL-MART STORES, INC. did not place signs near said water on the floor.

24. On the morning of November 2, 2016, an employee, agent and/or servant of Defendant WAL-MART STORES, INC. did not place barricades near said water on the floor to prevent customers from slipping.

25. On the morning of November 2, 2016, Plaintiff ALICJA PALKA was a customer at Walmart Store Number 3725 and was walking through the aisle near the pharmacy.

26. As Plaintiff ALICJA PALKA walked through the aisle of Walmart Store Number 3725, Plaintiff ALICJA PALKA slipped on the aforementioned water on the floor.

27. As a result of slipping on the aforementioned water on the floor, Plaintiff ALICJA PALKA fell and was injured.

COUNT I – Premises Liability

ALICJA PALKA v. WAL-MART STORES, INC. aka Walmart Store Number 3725

28. Plaintiff incorporates by reference all preceding paragraphs.

29. At all times stated herein, it was the duty of the Defendant, WAL-MART STORES, INC., as owner, occupier and/or manager of Walmart Store Number 3725, by and through its agents, employees and/or servants, including ANA RODRIGUEZ, to exercise ordinary care so that the premises were in a reasonably safe condition so as not to cause injury to individuals, including Plaintiff, ALICJA PALKA, lawfully on said premises.

30. Notwithstanding said duty, on the aforesaid date and at said place, Defendant, WAL-MART STORES, INC. by and through its duly authorized agents, employees, and/or

servants, including ANA RODRIGUEZ, committed one or more of the following acts and/or omissions:

- a. Allowed a dangerous condition to exist in the pathway of their store by failing to remove water on the floor even though they knew, or in the exercise of ordinary care, should have known that the same created a hazard to invitees and other persons, including Plaintiff, ALICJA PALKA;
- b. Created a dangerous condition by failing to provide a reasonably safe pathway for invitees such as Plaintiff, ALICJA PALKA, by failing to repair a leak in the ceiling and/or roof even though they knew or, in the exercise of ordinary care, should have known that invitees and other persons, including Plaintiff, would be using said pathway and knew that the leak would thereby create a hazard for Plaintiff;
- c. Created a dangerous condition by failing to properly warn and/or notify invitees such as Plaintiff, ALICJA PALKA, of the dangerous condition, the water on the floor which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff;
- d. Created a dangerous condition by failing to place signs notifying invitees such as Plaintiff, ALICJA PALKA, of the dangerous condition, the water on the floor which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff;
- e. Created a dangerous condition by failing to place barricades near said water on the floor to prevent invitees such as Plaintiff, ALICJA PALKA, from slipping on the water which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff;
- f. Failed to provide a safe means of ingress/egress to and from departments in their store, even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, ALICJA PALKA, would be using said pathway to access said departments and knew that there was water in said pathway which created a hazard for Plaintiff; and
- g. Was otherwise careless and/or negligent.

31. Defendant, WAL-MART STORES, INC. is vicariously liable for the aforesaid careless and negligent acts and/or omissions of its employee and/or agents, including the Defendant, ANA RODRIGUEZ, in causing said collision and injuries to ALICIA PALKA.

32. As a direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, was caused to be injured by the water on the floor, and suffered significant injuries and resulting damages.

33. As a direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, sustained injuries of a personal and pecuniary nature.

34. As a further direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, suffered severe and permanent injuries, both internally and externally; and as a consequence thereof, Plaintiff has suffered and will continue to suffer great pain and mental anguish and loss of a normal life; that in addition thereto, Plaintiff has incurred and will in the future incur reasonable and necessary medical expenses in endeavoring to treat of said injuries; and that Plaintiff has and will suffer from disability and disfigurement, and has otherwise been damaged in a pecuniary way.

WHEREFORE, Plaintiff, ALICJA PALKA, by and through her attorneys, ROMANUCCI & BLANDIN, prays for judgment against Defendant, WAL-MART STORES, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), the jurisdictional limit of the law division of the Circuit Court of Cook County.

COUNT II—NEGLIGENCE

ALICJA PALKA v. WAL-MART STORES, INC. aka Walmart Store Number 3725

35. Plaintiff incorporates by reference all preceding paragraphs.

36. At all times stated herein, it was the duty of the Defendant, WAL-MART STORES, INC., as owner, occupier and/or manager of Walmart Store Number 3725, by and through its agents, employees and/or servants, including ANA RODRIGUEZ, to exercise ordinary care so that the premises were in a reasonably safe condition so as not to cause injury to individuals, including Plaintiff, ALICJA PALKA, lawfully on said premises.

37. Notwithstanding said duty, on the aforesaid date and at said place, Defendant, WAL-MART STORES, INC. by and through its duly authorized agents, employees, and/or servants, including ANA RODRIGUEZ, committed one or more of the following acts and/or omissions:

- a. Failed to remove water on the floor even though they knew, or in the exercise of ordinary care, should have known that the same created a hazard to invitees and other persons, including Plaintiff, ALICJA PALKA;
- b. Failed to provide a reasonably safe pathway for invitees such as Plaintiff, ALICJA PALKA, by failing to repair a leak in the ceiling and/or roof even though they knew or, in the exercise of ordinary care, should have known that invitees and other persons, including Plaintiff, would be using said pathway and knew that the leak would thereby create a hazard for Plaintiff;
- c. Failed to properly warn and/or notify invitees such as Plaintiff, ALICJA PALKA, of the dangerous condition, the water on the floor which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff;
- d. Failed to place signs notifying invitees such as Plaintiff, ALICJA PALKA, of the dangerous condition, the water on the floor which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff; and/or
- e. Failed to place barricades near said water on the floor to prevent invitees such as Plaintiff, ALICJA PALKA, from slipping on the water which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would

not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff;

38. Defendant, WAL-MART STORES, INC. is vicariously liable for the aforesaid careless and negligent acts and/or omissions of its employee and/or agents, including the Defendant, ANA RODRIGUEZ, in causing said collision and injuries to ALICIA PALKA.

39. As a direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, was caused to be injured by the water on the floor, and suffered significant injuries and resulting damages.

40. As a direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, sustained injuries of a personal and pecuniary nature.

41. As a further direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, suffered severe and permanent injuries, both internally and externally; and as a consequence thereof, Plaintiff has suffered and will continue to suffer great pain and mental anguish and loss of a normal life; that in addition thereto, Plaintiff has incurred and will in the future incur reasonable and necessary medical expenses in endeavoring to treat of said injuries; and that Plaintiff has and will suffer from disability and disfigurement, and has otherwise been damaged in a pecuniary way.

WHEREFORE, Plaintiff, ALICJA PALKA, by and through her attorneys, ROMANUCCI & BLANDIN, prays for judgment against Defendant, WAL-MART STORES, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), the jurisdictional limit of the law division of the Circuit Court of Cook County.

COUNT III—NEGLIGENCE

ALICJA PALKA v. ANA RODRIGUEZ, agent of Wal-mart

42. Plaintiff incorporates by reference all preceding paragraphs.

43. At all times stated herein, Defendant, ANA RODRIGUEZ was the manager of said premises.

44. At all times stated herein, it was the duty of the Defendant, ANA RODRIGUEZ, to ensure the safety of invitees, including Plaintiff, ALICJA PALKA.

45. At all times stated herein, it was the duty of the Defendant, ANA RODRIGUEZ, to exercise ordinary care so that the premises were in a reasonably safe condition so as not to cause injury to individuals, including Plaintiff, ALICJA PALKA, lawfully on said premises.

46. Notwithstanding said duty, on the aforesaid date and at said place, Defendant, ANA RODRIGUEZ, committed one or more of the following acts and/or omissions:

- a. Failed to remove water on the floor even though they knew, or in the exercise of ordinary care, should have known that the same created a hazard to invitees and other persons, including Plaintiff, ALICJA PALKA;
- b. Failed to provide a reasonably safe pathway for invitees such as Plaintiff, ALICJA PALKA, by failing to repair a leak in the ceiling and/or roof even though they knew or, in the exercise of ordinary care, should have known that invitees and other persons, including Plaintiff, would be using said pathway and knew that the leak would thereby create a hazard for Plaintiff;
- c. Failed to properly warn and/or notify invitees such as Plaintiff, ALICJA PALKA, of the dangerous condition, the water on the floor which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff;
- d. Failed to place signs notifying invitees such as Plaintiff, ALICJA PALKA, of the dangerous condition, the water on the floor which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff;

- e. Failed to place barricades near said water on the floor to prevent invitees such as Plaintiff, ALICJA PALKA, from slipping on the water which was present in her pathway even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, would not have knowledge of said dangerous condition, thereby creating a hazard for Plaintiff;
- f. Failed to provide a safe means of ingress/egress to and from departments in their store, even though they knew or, in the exercise of ordinary care, should have known that invitees or other persons, including Plaintiff, ALICJA PALKA, would be using said pathway to access said departments and knew that there was water in said pathway which created a hazard for Plaintiff; and
- g. Was otherwise careless and/or negligent.

47. Defendant, WAL-MART STORES, INC. is vicariously liable for the aforesaid careless and negligent acts and/or omissions of its employee and/or agent, the Defendant, ANA RODRIGUEZ, in causing said collision and injuries to ALICIA PALKA.


48. As a direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, was caused to be injured by the water on the floor, and suffered significant injuries and resulting damages.

49. As a direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, sustained injuries of a personal and pecuniary nature.

50. As a further direct and proximate result of one or more of the foregoing acts and/or omissions, Plaintiff, ALICJA PALKA, suffered severe and permanent injuries, both internally and externally; and as a consequence thereof, Plaintiff has suffered and will continue to suffer great pain and mental anguish and loss of a normal life; that in addition thereto, Plaintiff has incurred and will in the future incur reasonable and necessary medical expenses in endeavoring to treat of said injuries; and that Plaintiff has and will suffer from disability and disfigurement, and has otherwise been damaged in a pecuniary way.

WHEREFORE, Plaintiff, ALICJA PALKA, by and through her attorneys, ROMANUCCI & BLANDIN, prays for judgment against Defendant, ANA RODRIGUEZ, agent of Wal-mart Stores, Inc., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), the jurisdictional limit of the law division of the Circuit Court of Cook County.

Respectfully Submitted,
ROMANUCCI & BLANDIN, LLC

By: 
Attorney for the Plaintiff

Michael R. Grieco
ROMANUCCI & BLANDIN, LLC
321 N. Clark St.; Ste 900
Chicago, IL 60654
Tel: (312) 458-1000
Fax: (312) 458-1004
Email: mgrieco@rblaw.net
Attorney No.: 35875